

REMARKS

In response to the Office Action mailed September 10, 2003, Applicants respectfully request reconsideration in light of the foregoing amendments to the claims, the following remarks and the attached Terminal Disclaimer.

In a phone call between the Examiner and the undersigned on September 5, 2003, restriction to one of seven inventions was required under 35 USC § 121. Applicants elected with traverse to elect the invention of claims 1-25 drawn to a partial oxidation process and are confirming their election in this response.

Applicants disagree with the Examiner's assertion that there are seven distinct inventions present in the application. For example, the invention of Group II utilizes a second reactor in the partial oxidation of a hydrocarbon process. Furthermore, the Grouping III, IV, V, VI and VII which are drawn to processes for producing cyclic anhydrides, alkylene oxide, chlorinated hydrocarbons, aldehydes and nitriles, respectively, are all partial oxidation of hydrocarbon reactions and accordingly should be examined together.

However, in order to expedite the prosecution of the subject application, Applicants have cancelled claims 26-43 and are currently prosecuting as per their election the claims of Group I, 1-25. Reconsideration and reversal of this restriction requirement are respectfully requested.

Claims 1-25 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-31 of US Patent No. 6,379,586 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '586 patent claims a process for producing hydrogen and carbon monoxide by the partial oxidation of at least one hydrocarbon by passing an oxygen-containing gas at a temperature in the range of about 300 to about 1400°C through a reaction zone containing an oxygen-selective mixed conductor which

may be ceramic at a pressure in the range of 0.5 to 50 bara to adsorb oxygen from the oxygen-containing gas onto the mixed conductor and passing at least one hydrocarbon through the reaction zone at a temperature in the range of about 300 to about 1400°C thereby contacting the mixed conductor and reacting with the oxygen to produce the hydrogen and carbon monoxide.

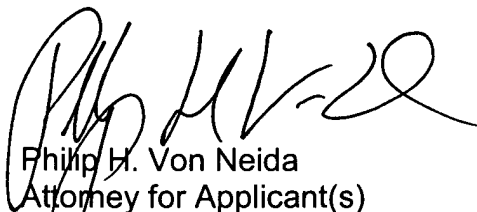
Applicants contend that their invention as claimed in claim 1 is not obvious over claims 1 to 31 of the '586 patent. However, in order to expedite prosecution, Applicants are submitting a timely filed Terminal Disclaimer apparently disclaiming the subject matter of claims 1-25 over those claims 1-31 of the '586 patent. Reconsideration and reversal of this rejection are respectfully requested.

For these reasons, Applicants submit that their claims 1-25 define patentable subject matter and are in condition for allowance. Prompt favorable action to that end is respectfully requested.

The Examiner is invited to call the undersigned should any issue arise during the reconsideration of this application.

Respectfully submitted,

Date: DECEMBER 4, 2003
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Enclosure

PVN:bjl